

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA, DAMAN AND DIU

### GOVERNMENT OF GOA, DAMAN AND DIU

#### Planning Department

Order

No. 4-19-75-PLG. Vol. II

Read: — Order No. 4-19-75-PLG. Vol. I dated 27-7-83.

The ad-hoc appointment of the following Group 'A' and 'B' Gazetted Officers from the Common Statistical Cadre is continued further for a period from 27-7-83 to 27-7-84 or till the posts are filled on regular basis whichever is earlier.

1. Shri B. S. C. C. Dias — Dy. Director.
2. Shri R. B. Dessai — Statistical Officer.
3. Shri A. D. Narvekar — Research Assistant.
4. Shri F. O. Colaco — Research Assistant.
5. Shri R. B. Prabhu — Research Assistant.
6. Smt. M. Celeste das Dores e Souza — Research Assistant.
7. Shri C. B. Pankar — Research Assistant.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. B. Verekar, Planning Officer.

Panaji, 10th August, 1983.

#### Works, Education and Tourism Department

Order

No. 12/6/82-WET I

Shri D. B. Lall, Architect, P. W. D. is hereby appointed as Asstt. Professor in Architecture in Goa College of Engineering, Farmagudi with effect from 1-9-82 (F. N.) in the scale of Rs. 1200-1900 plus usual allowances, by transfer on deputation.

The terms and conditions of his deputation will be as per the standard terms of deputation contained in the Government of India, Ministry of Finance O.M. No. F. 10 (24)-E-II/60 dated 4/5/1961 and as amended from time to time.

He shall draw his grade pay plus deputation allowance as admissible under the rules.

The period of deputation will be for a period of 2 years or till the post is filled on regular basis whichever is earlier.

This issues in supersession of earlier Government Order No. 12/6/82-WET I dated 10/9/1982.

By order and in the name of the Administrator of Goa, Daman & Diu.

T. S. Khandeparkar, Under Secretary to the Government of Goa, Daman & Diu.

Panaji, 9th August, 1983.

Order

No. 8/35/78/WET

Government is pleased to nominate Shri Damu Kenkare as a representative of the Union Territory of Goa, Daman and Diu on the General Council of Sangeet Natak Akademi, New Delhi as non-official member for the period of five years.

The expenditure on his journeys to New Delhi for attending the meetings or on any work in connection with the Sangeet Natak Akademi should be borne by the Kala Academy, Panaji.

He shall be entitled for T. A. and D. A. as admissible to Group 'A' Officer.

This issues with the concurrence of Finance Department vide their U. O. No. Fin/Exp/5877/83 dated 2-8-83.

By order and in the name of the Administrator of Goa, Daman and Diu.

T. S. Khandeparkar, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 5th August, 1983.

#### Local Administration and Welfare Department

Notification

No. 1-1-82-HB

Read: Government Notifications, No. 1-1-82-HB dated 25-9-1982 and 1-2-1983.

The Administrator of Goa, Daman and Diu is pleased to extend further the time limit mentioned in the Notification of even number dated 1-2-1983, for a period upto 31-8-1983 or till the Housing Board is reconstituted, whichever is earlier.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. V. Pimenta, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 6th August, 1983.

#### Revenue Department

Notification

No. 22/29/80-RD

Whereas by Government Notification No. 22/29/80-RD dated 27-8-81 published on page 225 of Series II, No. 24 of the Official Gazette dated 10-9-1981 it was notified under Section 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the land specified in the schedule appended to the said notification (hereinafter referred to as the "said land") was needed for public purpose viz. construction of Bus Stand at Ponda.

And whereas in the opinion of the appropriate Government (hereinafter referred to as the "Government") the said land is not required for the aforesaid purpose.

Now, therefore, the Government is pleased to declare under Sub-section (1) of Section 48 of the said Act that it has withdrawn from acquisition the said land for the aforesaid public purpose and that the aforesaid Government notification shall be deemed to be cancelled so far as it relates to the said land. The persons interested in the said land, may lodge to the Deputy Collector, South Goa, Margao, within a period of thirty days from the date of this notification claims under Sub-section (2) of Section 48 of the said Act, for the damage suffered by them in consequence of the notice or

of any proceedings thereunder and for costs reasonably incurred by them in prosecution of the proceedings under the said Act relating to the said land.

A plan of the land, shall be available for inspection in the office of the Deputy Collector, South Goa, Margao for a period of thirty days from the date of this Notification.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

A. S. Ingle, Under Secretary (Revenue-I).

Panaji, 5th August, 1983.

Notification

No. 22/146/81-RD

Whereas by Government Notification No. 22/146/81-RD dated 10-6-82 published on page 154-155 of Series II, No. 12 of the Official Gazette, dated 21-6-82 it was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act") that the land, specified in the schedule appended to the said Notification (hereinafter referred to as the "said land") was likely to be needed for the public purpose viz. construction of road at Davondem-Margao.

And Whereas the appropriate Government (hereinafter referred to as "the Government") is satisfied after considering the report made under sub-section (2) of Section 5A of

the said Act, that the said land specified in the schedule hereto is needed to be acquired for the public purpose specified above.

Now, Therefore, the Government is pleased to declare under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government is also pleased to appoint under clause (c) of Section 3 of the said Act, the Dy. Collector, South Sub-Division, Margao to perform the functions of a Collector for all proceedings hereinafter to be taken in respect of the said land, and to direct him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said Dy. Collector, South Sub-Division, Margao till the award is made under Section 11.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	P. T. Sheet No.	Chalta No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Salcete	Margao	17	8/part	Agostinho Crasto.	550.00
			17	7/part	1. Caetano Rosario Crasto. 2. Fabrica da Igreja de Dous Espirito Santo do Margao.	800.00
			17	15/part	Maria Paulucina da Costa.	836.00
			2	8/part	Pedro Coutinho.	459.00
			2	9/part	William Fernandes.	318.00
			3	2/part	Caetano Francisco Crasto.	290.00
			2	6/part	Ana Rosa Fernandes.	408.00
			3	3/part	Albano Costa.	425.00
			3	5/part	Augustinho Crasto.	270.00
			3	4/part	Joaquim Crasto.	310.00
			3	7/part	Leela Pereira.	435.00
			3	10/part	Comunidade of Margao.	24.00
	Nuven		Sr. No. 36/part		Octaviano L. Pereira.	875.00
Total .....						6000.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

A. S. Ingle, Under Secretary (Revenue—I).

Panaji, 5th August, 1983.

## Notification

No. 22/89/82-RD

Whereas by Government Notification No. 22/89/82-RD dated 31-8-82 published on page 328 & 329 of Series II, No. 25 of the Official Gazette, dated 16-9-82 it was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act") that the land, specified in the schedule appended to the said Notification (hereinafter referred to as the "said land") was likely to be needed for the public purpose viz. Construction of Site Office for Orlim Bridge at Orlim.

And Whereas the appropriate Government (hereinafter referred to as "the Government") is satisfied after considering the report made under sub-section (2) of Section 5A

of the said Act, that the said land specified in the schedule hereto is needed to be acquired for the public purpose specified above.

Now, therefore, the Government is pleased to declare under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government is also pleased to appoint under clause (c) of Section 3 of the said Act, the Land Acquisition Officer, PWD-Cell, Altinho-Panaji to perform the functions of a Collector for all proceedings hereinafter to be taken in respect of the said land, and to direct him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said Land Acquisition Officer, PWD-Cell, Altinho-Panaji till the award is made under Section 11.

## SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Salcete	Orlim	—	14/6 part	Shri Jose Antonio Xavier Miranda.	165.00
Total .....						165.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

A. S. Ingle, Under Secretary (Revenue-I).

Panaji, 5th August, 1983.

## Notification

No. RD/LQN/310/79

Whereas by Government Notification No. RD/LQN/310/79 dated 28-3-81 published in the Official Gazette No. 6 Series II dated 7-5-1981 it was notified under Section 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the land specified in the schedule appended

to the said Notification (hereinafter referred to as the "said land") was likely to be needed for public purpose viz. Sports Complex at Chicalim Vasco-da-Gama.

Now therefore, in exercise of the powers conferred under sub-section (1) of Section 48 of the said Act, the Government is pleased to withdraw from acquisition the land specified in the Schedule hereto.

## SCHEDULE

(Description of the said land)

Taluka	Village	Chalta No.	P. T. S. No.	Names of the persons believed to be interested in land.	Approximate area in sq. mts.
1	2	3	4	5	6
Mormugao	Vasco	126 A	1/Part	O: Smt. Rasinibai S. Sardessai.	1932.00
— do —	— do —	144	1/Part	O: Comunidade of Vaddem and others.	5642.00
<p><b>Boundaries</b></p> <p>North: Road</p> <p>South: Chalta No. 1 of PTS No. 144 (Proposed to be acquired by DSCA)</p> <p>East: Survey No. 84 (Part) land already acquired by DSCA (Village boundary of Chicalim)</p> <p>West: Chalta No. 1 part of PTS No. 144</p>					
Total .....					7574.00

The persons interested in the said land may lodge before the Dy. Collector (L.A.O.), Panaji within a period of thirty days from the date of publication of this Notification in the Official Gazette, claims for compensation under sub-section (2) of Section 48 of the said Act, for the damage suffered by them in consequence of the notice or of any proceedings thereunder and for cost reasonably incurred by them in prosecution of the proceedings under the said Act relating to the said land.

A plan of the land, shall be made available for inspection in the Office of the Dy. Collector (L.A.O.), Panaji for a period of thirty days from the date of publication of this Notification in the Official Gazette.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

A. S. Ingle, Under Secretary (Rev.-I).

Panaji, 9th August, 1983.

## Notification

No. 22/67/83-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. For improvement of road from Verla-Canca- Khalapwada to Band at Canca, Bardez.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Land Acquisition Officer, P.W.D. (Cell), Altinho, Panaji, to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land:

1. The Collector of Goa, Panaji.
2. The Land Acquisition Officer, P.W.D. (Cell), Altinho-Panaji.
3. The Executive Engineer, Road and Bridges, North II, P.W.D., Panaji.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Land Acquisition Officer, P.W.D. (Cell), Altinho-Panaji, for a period of 30 days from the date of publication of this Notification in the Official Gazette.

## SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub-Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Bardez	Canca	28	2/part 9/part	Lourenc Caitan D'Souza. Afram D'Souza. North: S. No. 28/2, 9 & Footpath. South: Road. East: Footpath & road. West: Survey No. 28/1.	70.00 90.00
			27	14 "	Helen Isporanca D'Souza. North: Road. South: Survey No. 27/14. East: Survey No. 27/1. West: Road.	50.00
			27	2 "	Idalin D'Souza.	45.00
				3 "	Walter F. D'Souza. North: Road. South: Survey No. 27/2 & 3. East: Survey No. 27/4. West: Survey No. 27/1.	150.00
			31	12 "	Antonio Gomes. North: Survey No. 31/2 & road. South: Road. East: Road. West: Road.	50.00
			1	6 "	Gaundis De Melo.	40.00
				5 "	Antonio Gomes. North: Road. South: Road and Nala. East: Survey No. 1/5 & 6. West: Road.	20.00
			46	14/part	Gregorio Braganza. North: Survey No. 46/14. South: Road. East: Village boundary of Corlim. West: Survey No. 31/3.	350.00
			47	1/part	Comunidade. T: Raghuvir Pathar. North: Road. South: Survey No. 47/1. East: Village Boundary of Corlim. West: Survey No. 1/2.	600.00
			20	1/part	Raimundo Minguel Braganza. North: Survey No. 24/31 & road. South: Road. East: Survey No. 20/1 West: Road.	340.00

1	2	3	4	5	6	7
Bardez	Mapusa City.	1	23/part P.T.S. No. 171	H: Narayan Raju Kamat Dalal. T: Ganesh Arjun Govenkar. North: Survey No. 1/33 of P.T.S. No. 171. South: Road. East: Road. West: Village Boundary of Canca.		35.00
		4 (part)	P.T.S. No. 172	H: Fr. Costa. T: Ulhas Shankar Barde. North: Road. South: S. No. 4. East: Road. West: Village boundary of Canca.		65.00
Total .....						1905.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

A. S. Ingle, Under Secretary (Revenue-I).

Panaji, 6th August, 1983.

### Industries and Labour Department

Order

No. 28/2/79-ILD

The following Awards given by the Industrial Tribunal, Goa, Daman and Diu are hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Industries and Labour).

Panaji, 5th August, 1983.

#### IN THE LABOUR COURT GOA, DAMAN AND DIU, PANAJI-GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No. : LCC/2/82

1. Shri Dinanath A. Lotlikar — Applicant  
V/s.  
1. M/s. S. Kantilal & Co. Pvt. Ltd. — Opponent  
Applicant represented by P. Ghodge, Union Leader.  
Opponent represented by Shri Ramesh Desai, Labour Advisor.

Panaji. Dated: 20-6-1983

#### AWARD

This is an application filed under Section 33C(2) of the I.D.A., 1947, in short the Act, by the above applicant against the above opponent, claiming from the latter Rs. 16,444/- as his salary dues from December 1980 to January 1982.

2. It is his case that he was employed on 6-12-1956 with the opponents as a Clerk at the Head Office, Margao; his monthly salary was Rs. 90/- initially and his present salary is Rs. 1,405/-. The Management failed to pay him his salary from December 1980 to January 1982, amounting to Rs. 16,444/-. He approached the Management several times but they have failed to effect the payment till this date.

3. In its written statement, the employer/opponent has raised certain preliminary objections, mainly regarding the impleading of Shri Pravinkumar Gosalia and Shri Vinod S. Gosalia as opponents in this case in their individual capacity and also regarding the entitlement of the applicant to file this application on the ground that he is not a 'Workman' within the meaning of Section 2(s) of the Act.

4. On merits, it is contended that, since 1973-74 the business activities of the opponent, namely the export of iron ore was not going on in a satisfactory manner and in the last 4 years the firm has been facing acute financial crisis. The

workmen including the applicant were paid of their wages, although the payments, were delayed, due to financial difficulties. In a meeting held between the employer and the workmen it was agreed that the workmen employed in the Mines would give a production at a certain rate per month, based on which the opponents agreed to make payment, linked with production, to the workmen employed in the Mines. There would be no effective work to the employees employed in the Head Office unless there was production by the employees in the Mines. On account of failure of the workmen to give any production from the period December 1980, the employees in the Head Office were considered on lay-off without wages. In any event, the applicant has not performed any duties on the aforementioned period and as such is not entitled to claim any amount from the opponent.

5. There was a rejoinder filed by the applicant rebutting the allegations made by the opponent in its Written Statement.

6. After issues were framed and evidence was being led by the parties, terms of amicable settlement were filed by the parties settling the matters in dispute in this application as well as in the reference No. IT/11/83, and praying for a Consent Award. The settlement terms, which are common to both the cases and have been filed in case No. IT/11/83, read as follows: "Shri Dinanath A. Lotlikar agrees to accept, and Employer M/s. S. Kantilal & Co. Pvt. Ltd. agree to pay to Shri Dinanath A. Lotlikar the following amounts by way of full and final settlement of all the claims of Dinanath A. Lotlikar under this reference and under Case No. LCC/2/82.

1) Wages due as on 17th July, 1982	Rs. 20,618.18
2) Gratuity	Rs. 10,879.50
3) Leave encashment of 56 days	Rs. 2,622.50
4) Bonuses	Rs. 5,531.60

Total Rs. 39,651.78

The company agree to pay the above amount in following instalments:

- a) First instalment of Rs. 8,500/- on signing the agreement.  
b) Balance amount of Rs. 31,151.78 will be paid in five equal quarterly instalments thereafter."

7. The above terms are fair and just to both the parties and, hence, I accept them and pass the following order:

#### ORDER

Consent Award in terms of the above settlement is hereby made and this application is disposed off. No order as to costs.

Dr. Renato de Noronha  
Presiding Officer  
Labour Court

**IN THE LABOUR COURT GOA, DAMAN AND DIU,  
PANAJI-GOA**

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No.: LCC/2/83

1. Shridhar S. Naik Kundaikar  
V/s.

Applicant

1. M/s. Society of Transport

Opponent

Applicant represented by Adv. A. Nigalye.

Panaji. Dated: 25-7-83

**AWARD**

This is an application filed under Section 33C(2) of the I. D. A., 1947, in short the Act, by the above applicant against the above opponent, claiming from the latter the total amount of Rs. 9,240/- as his back wages from 7-1-1981 to 7-1-1983 at the rate of Rs. 385/- per month.

2. It is applicant's case that he was employed by the opponent and his services were terminated w.e.f. 7-1-1981. A dispute was raised bearing No. IT/3/82 and this Industrial Tribunal by its Award dated 1-12-1982 held the termination of services of the applicant as illegal and unjustified and ordered his reinstatement with continuity and full back wages. This Award has not been implemented by the Opponent. The monthly wages of the applicant were Rs. 255/- plus Rs. 5/- per day, on all working days i.e. Rs. 130/- per month, totalling Rs. 385/- per month.

3. The opponent, in its written statement, has stated that, due to its financial difficulties and heavy losses its business is almost wound up and so it would not be possible for the opponent to pay to the applicant all his dues. It is further stated that efforts are being made to honour the Award, but it is not possible to implement it just now.

4. After hearing both the parties, order was passed on 1-7-83 mentioning therein that the opponent had admitted the applicant's claim and so nothing else was to be done in these proceedings but to deliver the Award.

5. Hence, I pass the following order:

**ORDER**

I consider the applicant's claim as proved and order the opponent to satisfy the same within one month. Costs of Rs. 100/- to be paid by the opponent to the applicant.

Dr. Renato de Noronha  
Presiding Officer  
Labour Court

**IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN & DIU,  
PANAJI GOA**

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/40/75

1. Shri Ramakant Borkar  
V/s.

— Workman/Party I

1. M/s. Drogaria Salcette

— Employer/Party II

Employer/Party II represented by Shri Ramesh Desai,  
Labour Advisor.

Panaji. Dated: 11-7-1983

**AWARD**

This is a reference made to this Tribunal by the Govt. of Goa, Daman and Diu by its Order No. CLE/1/ID(137)/74/IT-24/75/1605 dated 4th December 1975. The schedule annexed to the order of reference reads as follows:

"Whether the action of the Management of M/s. Drogaria Salcette, Margao Goa, in refusing the employment to Shri Ramakant P. Borkar, Salesman, Borim, Ponda, Goa, with effect from 1-1-1974 is legal and justified?

If not, to what relief the concerned workman is entitled to?"

2. The case of the workman is that he was employed with the employer "Drogaria Salcette" from 1964 and had a clear service record without any blemish. However, since 1-1-1974 the employer prevented him from discharging his part of contract and refused him to resume duty. On 29th July, 1974 he was charge sheeted for some alleged misconducts and an inquiry was held, as a result of which he was discharged from services with immediate effect, by order dated 30-1-1975. The workman raised an industrial dispute, which gave rise to this reference. It is submitted that the discharge is bad in law, illegal, void and malafide and the inquiry is viciated by material irregularities for the reasons mentioned in the statement of claim. It is prayed that the workman be reinstated with back wages and also paid of his wages from 1-1-1974 to 31-1-1975 which are still due.

3. The employer, in its written statement, has alleged that the workman alongwith one Menino D'Silva had committed a fraud valued approx. Rs. 17,650/- in 1973. He undertook to pay Rs. 5000/- by way of compromise, of which he had paid Rs. 1000/- on 27-11-1973 and the balance was to be paid latest by 15-6-1974. As he did not pay, a show cause notice was issued to him as to why he should not be dismissed from services and his claim for provident fund, gratuity to that extent should not be forfeited for the liability arising out of fraud on his part. In the meantime, the workman approached the Labour Commissioner's office. The employer submitted its comments on the representation made by the workman to the Labour Commissioner. A copy of the charge sheet issued to the workman was sent to the Labour Commissioner by the employer and he was requested to keep the issue in abeyance pending the inquiry to be held by the employer. The Management also offered to participate in the inquiry, in case it was decided by the Labour Commissioner's office to hold the same. Finally, inquiry was held by the employer, in which the workman participated alongwith his representative and was given full opportunity to defend himself. The workman was charged for the offences of dishonesty, fraud, cheating and unauthorised absence for the period the fraud was detected till the date of issue of the charge sheet. The Inquiry Officer held the workman guilty of the above charges. The employer concurred with the findings of the Inquiry Officer and discharged the workman on 30-1-1975. Subsequent to the discharge, the workman filed an application under Section 15(2) of the Payment of Wages Act 1936 for the recovery of the amount alleged to be the wages due to him, which application he did not press and hence he has surrendered his claim on any wages for the period from 1-1-1974 to 31-1-1974. The Asstt. Labour Commissioner submitted his failure report to the Government and hence this reference. It is submitted that the order of reference is bad in law for the following reasons:

- a) That the workman has not raised any demand in regard to refusal of employment by the management upon the employee;
- b) That, in the absence of any demand served upon the employer, there cannot be any dispute in existence in law;
- c) That, in the absence of any demand upon the employer, the order of reference is invalid and as such this Hon'ble Tribunal has no jurisdiction to proceed in this adjudication.

On merits, it is submitted that no case has been made out by the workman to warrant the relief of reinstatement with back wages, as claimed by him.

4. Following issues were framed by the Tribunal:

- "1. Whether the inquiry held against Shri Borkar is fair, proper and legal?
2. Whether the conclusions of the Inquiry Officer are supported by evidence on record?
3. Whether the punishment meted out to Shri Borkar is fair, reasonable, just and proper?
4. Is Shri Borkar entitled to reinstatement?
5. If not, what other relief?
6. Is Shri Borkar entitled to back wages?
7. What quantum?
8. Is reference bad in law and not maintainable as pleaded by the Employer/Company?"

Issue No. 8 was not pressed by the employer and, hence, it was dropped (vide roznama dated 10-2-1982).

5. The workman's representative started examining the workman but, in the course of his examination-in-chief, the representative withdrew his representation. The workman

was sent notice regarding this withdrawal and requested to be present on the date fixed for the continuation of his evidence. The workman, however, failed to remain present and hence his further evidence was closed. The employer, on its turn, led the evidence of the Inquiry Officer, who produced the original inquiry proceedings and his findings.

6. Since the workman failed to remain present in court for the purpose of his cross examination by the employer, his evidence partly recorded during the examination-in-chief is to be ignored. On the other side, the Inquiry Officer has proved the inquiry proceedings and his findings (Exh. E-1 colly.) and stated that whatever transpired during the inquiry has been correctly recorded during the proceedings. Otherwise, the workman, in his statement of claim, has not alleged anything regarding the fairness of the inquiry held by the employer, but only attacked the findings of the Inquiry Officer.

7. I have carefully gone through the inquiry proceedings and the findings of the Inquiry Officer and I am satisfied that the inquiry held by the latter was fair, proper and with due compliance of law. The findings of the Inquiry Officer also are supported by the evidence on record and so the punishment imposed on the workman, having regard to the nature of the offences proved, cannot be said to be so harsh as to suggest any victimization by the employer.

8. In the premises above, I answer to the reference in the affirmative, considering the action of the Management in refusing the employment to the workman Ramakant Borkar w. e. f. 1-1-1974 is legal and justified.

In the circumstances of the case, I leave each party to bear its own costs.

**Dr. Renato de Noronha**  
Presiding Officer  
Industrial Tribunal

# IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN AND DIU, PANAJI-GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/50/82

1. Shri V. N. Shirodkar — Workman/Party I  
V/s.

1. M/s. Mandovi Pellets Pvt. Ltd. — Employer/Party II  
Workman/Party I represented by Adv. Ram M. Apte.  
Employer/Party II represented by Shri Ramesh Desai,  
Labour Advisor.

Panaji. Dated: 25-7-1983

## AWARD

This is a-reference made to this Tribunal by the Government of Goa, Daman and Diu, by its Order No. 28-1-82-ILD dated 27th September, 1982. The schedule annexed to the Order of reference reads as follows:

"Whether the action of the management of M/s. Mandovi Pellets Limited, Shiroda, Ponda-Goa, in terminating the services of the workman Shri V. N. Shirodkar, Assistant Fitter, w. e. f. 8-4-1980, is legal and justified?

If not, to what relief the workman is entitled to?"

2. The case of the workman/party I, as per his statement of claim, is that he joined the services of the employer/party II as Assistant Fitter on March 1979 with a monthly pay of Rs. 475/- and having been in continuous service after the expiry of the probation period, which ended on 31-12-1979, he has become a permanent employee of the Company. The workman has been in continuous employment for more than one year and discharged his duties diligently, ably and sincerely. Nevertheless, his services were terminated by the General Manager with immediate effect by letter dated 8-4-1980. This termination is illegal for the following reasons:

i) The General Manager had no authority in law to terminate the services of the claimant workman as the claimant had been appointed by the certified Attorney of the respondent company and not by the Gen. Manager.

ii) The reasons given for the termination of the services are neither real nor bonafide.

iii) The termination of the services of the workman has been made for extraneous considerations, as has been explained in his letter dated 20/6/1980 sent to the respondent.

iv) Even assuming that the termination of the service the workman was bonafide, it amounts to retrenchment within the meaning of Sec. 2(00) of the I. D. Act, 1947.

By a written notice dated 16-10-1980, the Management was called upon to reinstate the workman with full back wages, but with no result. So, he raised an Industrial Dispute and, hence, this reference. He has claimed his reinstatement with continuity of service and full back wages.

3. The employer, in its written statement, has stated that the workman joined the company at the age of about 44 years, and it was noticed, during the period of his probation, that he was very slow in his work and poor in grasping the oral instructions given to him from time to time, in his normal work. He was engaged in the maintenance job and involved in the repairs and maintenance of heavy equipment, tools etc. He was verbally told, time and again, regarding his deficiencies, which he accepted and promised his superiors to improve. On 28th September, 1979, his performance was reviewed and it was noticed that it was poor, particularly in the area of alignment of screw conveyor, fixing V-Belts on E-1041, compressor etc. The Departmental Head called him in the last week of September 1979 and drew his attention to the report. He promised to improve his performance and make an effort to come upto the mark by the end of his probation period.

The second periodic progress report was submitted by the Departmental Head and it was noticed that the workman was:

i) Very slow in his work;

ii) Did not know the job properly, such as alignment, fitting and assembly work;

iii) was not suitable for heavy industry.

It was recommended that his services be discontinued, his work not being satisfactory.

This report was sent to the Plant In-charge, who is also the Asstt. General Manager. The latter, being pre-occupied, took sometime and dealt with the same only on 21-1-1980. He instructed the departmental head that he should accordingly convey the decision of the Management to Mr. Shirodkar. The departmental head called Mr. Shirodkar and informed him about the Management's decision about terminating the services, due to his general failure to achieve the desired level of proficiency for the work for which he was employed. Mr. Shirodkar requested the departmental head that he may be permitted to continue to work for sometime more to facilitate him to seek alternate job.

The departmental head considered the workman's advanced age and agreed to his request and told him that by March end he should find out a job for himself. Even the Personnel Department informed the same thing to the concerned workman. It is submitted that continuation of Mr. Shirodkar in services of the company after 28.9.1979, in general, and after 21.1.1980, in particular, was intended purely to allow him to seek alternate employment. Even during the period subsequent to 21.1.1980, there was no change whatsoever of Mr. Shirodkar. Accordingly, vide Management's order dated 3-4-1980, his services were discontinued.

It is finally submitted that for about 2 years, the plant has not been operated and, therefore, in any case, the relief of reinstatement claimed by the workman cannot be granted, as the unit is virtually closed for the last more than 20 months.

4. The workman has filed his rejoinder denying the allegations made by the employer against him and stated that his termination was due to the fact that he did not oblige Shri B. S. Vaish, C.M.E., by continuing to do his private work of repairing tape recorder and house appliances, etc. as desired by him, Vaish. He has denied that the unit is virtually closed. According to him, some employees are working and some are given lay off and are being paid compensation.

5. After issues were framed, list of evidence filed and the matter fixed for evidence, the parties approached the Tribunal and stated that they have settled the matter amicably as per



the terms now filed, and prayed for a consent award to be passed accordingly.

The terms of settlement are as follows:

"a) Shri V. N. Shirodkar-workman/party I, accepts the termination of his services by the Employer/party II, as proper and bonafide.

b) The Employer-party II, agrees to pay the workman-party I, a total sum of Rs. 25,000/- (Rupees Twenty-five Thousand only) towards full and final settlement of all his claims arising out of his employment with the Employer-Party II and termination of his services by the Employer-Party II.

c) The workman-party I, agrees that he shall have no other claim (monetary or otherwise) whatsoever against the Employer-party II, except what has been stated under clause 'b' above.

d) The Employer-party II, agrees to effect the payment of this amount on 4th July, 1983."

6. The above terms are fair and do justice to both the parties. Hence, I accept them and pass the following order:

#### ORDER

Consent Award in terms of the above settlement is hereby made and this reference is disposed off. No order as to costs.

*Dr. Renato de Noronha*  
Presiding Officer  
Industrial Tribunal

#### Finance Department (Expenditure)

##### Order

No. 2/12/73-Fin (Exp)

Read: — Govt. Order No. 2/12/73-Fin(Exp) dated 20-5-83.

In supersession of the Govt. Order quoted above, Shri A. P. Siddhaye, Dy. Director of Accounts in the Directorate of Accounts, Panaji is appointed on deputation as Manager (Accounts & Administration) in the Goa Meat Complex Ltd., Panaji in the scale of Rs. 1100-1600 vice Shri N.C.T.H.R. Noronha, Accounts Officer who is transferred and posted in the resultant vacancy in the Directorate of Accounts as Dy. Director of Accounts. The terms and conditions of his deputation will be the same as contained in the Govt. of India, Ministry of Finance O.M. No. F. 10 (24)/3/60 dated 4-5-61 as amended from time to time. The period of deputation will be for one year in the first instance. The Goa Meat Complex

Ltd., Panaji shall be liable to pay to Govt, the leave salary and pension contribution at the prescribed rates.

2. Shri A. P. Siddhaye, Dy. Director of Accounts should move first and relieve Shri N.C.T.H.R. Noronha, Manager (Accounts & Administration) Goa Meat Complex Ltd., Panaji.

By order and in the name of the Administrator of Goa, Daman and Diu.

*Subhash V. Elekar*, Under Secretary (Finance).

Panaji, 9th August, 1983.

##### Order

No. 2-5-77/Fin(Exp)

Read: Government Order No. 2/26/77-Fin(Exp) dated 8-6-1982.

On repatriation from the Sub-Regional Office of the Employees' Provident Fund Organisation, Panaji, to which he was deputed as Accounts Officer under Govt. Order cited above, Shri G. K. Warriar, Accounts Officer, is posted as Accounts Officer in the Directorate of Agriculture, Panaji in the leave vacancy of Shri N. P. Sardesai, Accounts Officer, with immediate effect.

By order and in the name of the Administrator of Goa, Daman and Diu.

*Subhash V. Elekar*, Under Secretary (Finance).

Panaji, 5th August, 1983.

#### Law Department (Establishment)

#### Office of the Chief Electoral Officer

##### Notification

No. 2-2-80/ELEC(II)

It is notified that pursuant to the Election Commission of India's Notification No. 154/GOA/83 dated 8th July, 1983, Shri K. K. Mathur, Chief Secretary to the Government of Goa, Daman and Diu has taken over the charge of the office of the Chief Electoral Officer for the Union Territory of Goa, Daman and Diu with effect from 8th August, 1983.

*U. D. Sharma*, Addl. Chief Electoral Officer.

Panaji, 9th August, 1983.